

REMARKS

Claims 1 through 80 are pending in this application. Claims 13, 32, 33 and 50 are amended in several particulars for purposes of clarity in accordance with current Office policy, to assist the examiner and to expedite compact prosecution of this application. The Applicant appreciates the Examiner's indication of allowance concerning claims 1 through 8, 15 through 31, 39 through 49, 61 through 80 and the allowability of claims 33 through 38 and claims 50 through 60.

I. Claim Rejections - 35 USC § 112

The Examiner stated that Claims 50-60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because Claim 50 recites the limitation "the digital color gain signals and the digital cutoff signals" in the last two lines, since there is insufficient antecedent basis for this limitation in the claim, and dependent claims 51-60 are considered rejected for incorporating the defects from their respective parent claims by dependency.

Claim 50 has been amended to correct for antecedent basis as suggested by the Examiner, by deleting "the" from "digital color gain signals" and "digital cutoff signals". Therefore, claims 50-60 should now be allowable.

II. Claim Rejections - 35 USC § 103

According to MPEP 706.02(j), the following establishes a *prima facie* case of obviousness under 35 U.S.C. §103:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

A, Claims 9-14 and 32, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumaki (5,619,229). The Applicant respectfully traverses.

The Examiner stated that regarding claim 9, the Examiner states that Kumaki discloses (Figs. 1, 4, and 5) a method for color display adjustment, comprising: selecting a range of temperature (Fig. 4) according to maximum and minimum color temperature values (column 6, lines 27-40, wherein the minimum value is zero and the maximum value is the highest value); inputting a user selected value (Fig. 1, in the color temperature adjusting unit 5, a knob is handled to provide a color temperature by an operator) (column 3, lines 43-45); and determining color gain and cut-off data according to the user selected value (column 3, line 43 to column 4, line 20).

The only difference, the Examiner states, between the disclosure of Kumaki and the claimed invention is that the claim further requires determining color gain and cut-off data according to the maximum and minimum color temperatures, however, since Kumaki mentions that a knob is handled to provide a color temperature by an operator (column 3, lines 43-45), it is obvious to a person of ordinary skill in the art to recognize that the operator can turn the knob to minimum or zero value or to the highest or maximum value of the knob to obtain the gain and cut-off data since the gain and cut-off data change proportionally to the input color temperature values.

Respectfully, however, it is not clear where the relationship of “the operator can turn the knob to minimum or zero value or to the highest or maximum value of the knob to obtain the gain and cut-off data since the gain and cut-off data change proportionally to the input color temperature values” is taught or suggested. The cited text of col. 3, line 43- col. 4, line 20 only mentions of a knob on the color temperature adjusting unit 5 provides color temperature by the operator only.

As mentioned in MPEP 706.02(j), the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Here, it is not clear where such a relationship is taught in Kumaki. It is the Applicant's right to ask that such proof be produced through the prior art.

Moreover, simply being able to move a knob does not entail a limitation of determining color gain and cut-of data according to the user selected value, maximum color temperature and minimum

color temperature. The Examiner's comments are a conclusion rather than a reason for rejection. As the Examiner states, Kumaki fails to teach or suggest determining color gain and cut-off data according to the maximum and minimum values and therefore, there is nothing in Kumaki that further teaches such a limitation.

In addition, Kumaki does not teach or suggest selecting any kind of range, nor a range in accordance with certain values. Simply having a knob manipulating color temperature values does not have such a teaching or suggestion of selecting any kind of range. The selection is never actually made. Simply having a maximum and minimum value inherently in a knob does not teach or suggest also of selection of a range according to that maximum or minimum color temperatures especially since Kumaki does not even select any certain range.

Regarding claims 10 (and also 14), the Examiner states that Kumaki discloses (Fig. 6) a digital to analog (DAC) converter for converting the color gain and cut-off values of the amplifier (OP1) (column 8, lines 6-13 and lines 50-53). The Examiner stated that it is well known in the art that the operational amplifier (OP) has gain and cut-off values.

Respectfully, stating that operation amplifiers have gain and cut-off values does not mean that the cut-off values and analog signals are converted to analog signals. Col. 8, lines 6-13 state that with regard to OP1 multipliers 22R, G, B provide gain control signals to the amplifying stages. Figure 6 does not show the cut-off values. Col. 8, lines 50-53 only state that with regard to OP3,

VE is applied, but that it explicitly does not equal the cut-off level but only corresponds to it. Moreover, OP3 is distinct from OP1. Therefore, never is there disclosed the actual cut-off values being converted to analog signals.

In addition, it is impermissible within the framework of 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art. *In re Wesslau* 353 F.2d 238, 241, 147 USPQ 391, 393 (CCPA 1965); See also *In re Mercer*, 515 F.2d 1161, 1165-1166, 185 USPQ 774, 778 (CCPA 1975). The teaching of OP1 does not necessarily apply to OP3 simply by stating that it is well known for operational amplifiers having cut-off and gain values.

In addition, as it is the right of the Applicant, the Applicant asks the Examiner to provide the prior art to support the assertions of his knowledge and how simply having cut-off and gain values necessarily means that the cut-off and gain values are converted to analog signals. An obviousness rejection may not be established by probabilities or possibilities. There must be an actual teaching or suggestion to that effect.

Regarding claim 11, the Examiner states that since Kumaki mentions that a knob is handled to provide a color temperature by an operator (column 3, lines 43-45), it is obvious to a person of ordinary skill in the art to recognize that the operator can turn the knob to minimum or zero value or to the highest or maximum value of the knob to obtain the gain and cut-off data since the gain and cut-off data change proportionally to the input color temperature values, wherein the minimum value

and the maximum value of the knob is the initial color gain and cut-off values.

Respectfully, there is no actual teaching in Kumaki to that effect. The Examiner, respectfully, is improperly extrapolating from a simple disclosure of a knob for color temperature. The Examiner is stating that a person of ordinary skill can perform the limitation of the present invention by manipulating the knob. However, such manipulation must still be taught or suggested rather than conjectured. Therefore, it is clear that not all of the limitations have been taught or suggested by Kumaki.

The PTO has the burden of proof, by a preponderance of the evidence, to show that an applicant is not entitled to a patent because the claimed subject matter is anticipated by, or is obvious from, the art of record. A patent applicant is entitled to a patent “unless” the PTO establishes otherwise. See, e.g., *In re Dembiczak*, 175 F.3d 994, 1001, 50 U.S.P.Q.2d 1614 (Fed. Cir. 1999); *In re Epstein*, 32 F.3d 1559, 1564 (Fed. Cir. 1994); *In re Rijckeart*, 9 F.3d 1551, 1552, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Fine*, 837 F.2d 1071, 1074, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). Simply stating that the knob can moved in such manner and in another manner and possible when is not a proper reason for rejection.

In the *Graham v. Deere*, 383 U.S. 1 (1966), factual inquiries, mentioned in MPEP §2141, when applying 35 U.S.C. 103, the following tenets of patent law must be adhered to: (A) The claimed invention must be considered as a whole; (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and (D) Reasonable expectation of success is the standard with which

obviousness is determined.

Here, it is clear that stating that it is “obvious to a person of ordinary skill in the art to recognize that the operator can turn the knob to minimum or zero value or to the highest or maximum value of the knob to obtain the gain and cut-off data since the gain and cut-off data change proportionally to the input color temperature values, wherein the minimum value and the maximum value of the knob is the initial color gain and cut-off values” is viewed with benefit of impermissible hindsight because using a simple teaching of a knob for color temperature does not teach determining an initial color gain and cutoff values corresponding to the color temperature range between the maximum and minimum values *before* the inputting of the selected value. Kumaki never actually teaches the determination of the initial color gain and cutoff values, nor is it ever taught or suggested by Kumaki when such a step is to be performed.

Regarding claim 12, in addition to the remarks concerning claim 9, Kumaki fails to teach or suggest inputting the selected value with the selected range. The examiner states that the knob includes inherently a maximum and minimum and therefore, the selection is within that range. However, a knob having a maximum and minimum is not selecting a range of temperatures according to the maximum and minimum and then inputting a value with that selected range. Kumaki does not teach or even suggest selecting a range and then inputting the value within that range. Simply selecting by a knob does teach or suggest all of these limitations and no such actual teaching was ever made.

Regarding claim 13, the claim has been amended for the purpose of clarity to include the limitation of establishing a range of color temperatures, with the range of color temperatures being determined through both maximum and minimum color temperatures and being between maximum and minimum color temperatures.

With regard to 37CFR§1.173(c), the following includes an explanation of the support in the disclosure of the patent for amended claim 13. The amended claim 13 is supported as a whole by Figures 1 through 3 and the entire specification of the present patent. Specifically, for example, amended claim 13 is a method claim that is supported for example by figure 3 and the corresponding disclosure in the specification (*e.g.*, col. 5, line 39 to col. 7, line 21).

In addition to the remarks concerning claim 9, the range is determined through both the maximum and minimum color temperatures and yet between the maximum and minimum. Even if the knob has a maximum and minimum, a separate range according to the maximum and minimum and in between such a range is never taught or suggested.

Moreover, the gain and cutoff are not calculated according to such a range and user selected value. Kumaki only teaches a gain of K_rV_{cont} , K_gV_{cont} and K_bV_{cont} is generated, but such generation is not related to the established range an selected value, but rather only the value of the knob turned.

Regarding claim 32, claim 32 was amended for the sake of clarity to include setting a temperature range within a predetermined range.

With regard to 37CFR§1.173(c), the following includes an explanation of the support in the

disclosure of the patent for amended claim 32. The amended claim 32 is supported as a whole by Figures 1 through 3 and the entire specification of the present patent. Specifically, for example, amended claim 32 is a method claim that is supported for example by figure 3 and the corresponding disclosure in the specification (*e.g.*, col. 5, line 39 to col. 7, line 21).

As seen in Kumaki, simply having an inherent range in a knob does not entail setting a range with a certain range and then using that set range to help determine the cutoff values and gains.

Moreover, the gains and cutoff of Kumaki do not use the minimum and maximum temperatures value of that set range for the determination. As mentioned in col. 3, lines 61-67 stated that the knob of the color temperature adjusting unit 5 so the color temperature coefficients are generated only and in col. 4, lines 1-10 the signal is sent to the shift control circuit to allow then $V_{rco} - K_r * V_{bri}$ where the V_{bco} is the cutoff levels and in col. 3, lines 40-55 includes a gain control circuit 4 for generating $A_{Kr} V_{cont}$ for example. However, the gain and cutoff are not determined corresponding to the minimum and maximum temperature values of the set range that is within a predetermined range.

III. Allowable Subject Matter

The Examiner stated that Claims 33-38 are objected to as being dependent upon a rejected base claim 32, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 33 has been amended according to the Examiner suggestion to include the base claim

32, and therefore, claims 33-38 should now be allowed.

In view of the foregoing amendments and remarks, all claims are deemed to be allowable and this application is believed to be in condition to be passed to issue. If there are any questions, the examiner is asked to contact the applicant's attorney.

A fee of \$200.00 is incurred by this Amendment for addition of one (1) independent claim above twenty-two (22). Applicant's check drawn to the order of the Commissioner accompanies this Amendment. Should there be a deficiency in payment, or should other fees be incurred, the Commissioner is authorized to charge Deposit Account No. 02-4943 of Applicant's undersigned attorney in the amount of such fees.

Respectfully submitted,



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